



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,196	05/31/2005	Christian Rommel	00879.0188USWO	7602
23552	7590	04/08/2008	EXAMINER	
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			BRITAIN, JAMES R	
ART UNIT	PAPER NUMBER			
			3677	
MAIL DATE	DELIVERY MODE			
04/08/2008			PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/517,196	<b>Applicant(s)</b> ROMMEL, CHRISTIAN
	<b>Examiner</b> JAMES R. BRITtain	<b>Art Unit</b> 3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-8 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-8 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 06 December 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)

Paper No(s)/Mail Date \_\_\_\_\_

- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

**DETAILED ACTION**

***Specification***

The abstract of the disclosure is objected to because of the use of the legal language “said” (line 6), “invention” (line 1) and “inventive” (line 2) because the abstract is a summary of the technical disclosure and not the invention. Correction is required. See MPEP § 608.01(b).

The disclosure is objected to because of the following informalities: The sentences “This object … main claim” (page 2, lines 1-2) and “Advantageous … dependent claims” (page 2, line 11) are objected to as being superfluous as they are applicable to not just this application but to any and serve no useful purpose. The summary and objects of the invention are to be a concise description of the invention derived from what is set forth in the claims for those interested in this art and referring to the claims defeats the purpose. Cancellation of these sentences is required.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP §

2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 1 recites the broad recitation "for sample elements" (line 1), and the claim also recites "in particular for sample cards" (line 1) which is the narrower statement of the range/limitation.

The term "at least one holding body" (claim 1, lines 1-2) is followed by "has two holding bodies" (claim 1, line 4) renders claim 1 indefinite for the same reasons identified above in that a broad range is first claimed and then a narrow range "two" is claimed and this renders the scope unclear. Claim 1 recites "at least one handgrip" (last line) while there are numerous references to "the handgrips" (claim 2, line 2; claim 3, line 3) which implies more than one. As claim 1 includes the possibility of only one handgrip, it is unclear what is being referred to in these dependent claims when there is but one handgrip. Further, the limitations "at least one handgrip" (claim 2, line 3) and "at least one holding body" (claim 2, line 3) appears to introduce anew further handgrips and holding bodies beyond what is already set forth in claim 1. It is suggested that applicant utilize the appropriate definite article in these limitations to provide clear antecedent basis. Applicant repeatedly uses the construction "wherein ..., which" (claim 1, line 3; claim 3, line 2; claim 5, line 2; claim 6, line 2). This construction is formed by fragments and

in context appears to be a literal translation and is not written in idiomatic English. Extensive revision is required. The terms "the facing end faces" (claim 5, line 2) and "the passage region" (claim 5, lines 2-3; claim 6, line 2) lack clear antecedent basis. Obviously, the term "[sic]" (claim 5, line 3) and "fo" (claim 1, line 2) are inappropriate. The term "ring-like" (claim 1, line 5) is indefinite because it takes a definite term, "ring", and changes the scope in some undetermined manner by adding "-like". The remaining claims are indefinite because they depend from indefinite claims.

#### ***Claim Rejections - 35 USC § 102***

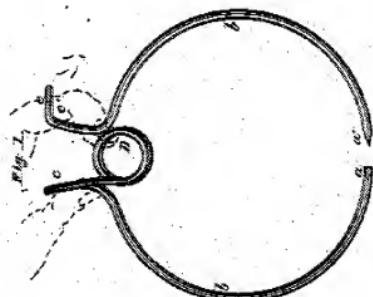
The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 7 and 8 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Crandell (US 63785).

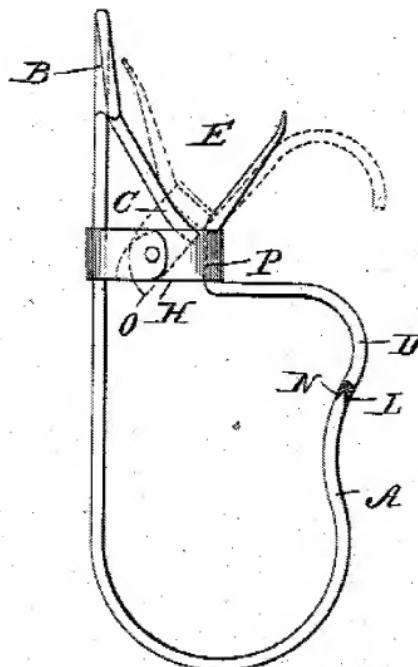
Crandell (figures 1, 2) teaches a holder inherently capable of holding sample cards having eyelets therein comprising two holding bodies, b, b', forming a ring-like configuration, two handgrips, c, c', with one having an eye, e, acting as a hanging device for the holder, a spring loaded pivoted joint, D.



Claims 1-3 and 5-8 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Keep (US 535622).

Keep (figure 1) teaches a holder inherently capable of holding sample cards having eyelets therein comprising two holding bodies, A, D, forming a ring-like configuration, two handgrips, B, E, with one, B, having an eye fully capable of being a hanging device for the holder, a spring, C, loaded pivoted joint, H, and beveled end faces, N, L, on the holding bodies.

Fig. I.



***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

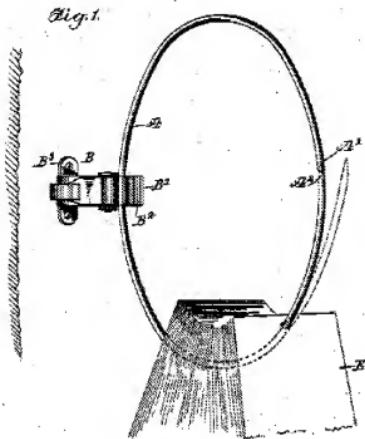
Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over either one of Crandell (US 63785) or Keep (US 535622) taken in view of Stebbings (US 858115).

Crandell (figures 1, 2) teaches a holder inherently capable of holding sample cards having eyelets therein comprising two holding bodies, b, b', forming a ring-like configuration, two handgrips, c, c', with one having an eye, e, acting as a hanging device for the holder, a spring loaded pivoted joint, D.

Keep (figure 1) teaches a holder inherently capable of holding sample cards having eyelets therein comprising two holding bodies, A, D, forming a ring-like configuration, two handgrips, B, E, with one, B, having an eye fully capable of being a hanging device for the holder, a spring, C, loaded pivoted joint, H, and beveled end faces, N, L, on the holding bodies.

The difference is that the holding bodies don't form an oval. However, Stebbings (figure 1) provides ample evidence that it is old and well known to form an oval holder (page 1, lines 70-74).

Therefore, it would have been obvious for the holding bodies of the devices of either Crandell or Keep to form an oval in view of Stebbings (figure 1) teaching that it is old and well known to form an oval holder (page 1, lines 70-74).



own resiliency to receive it. The file-loop A, as shown in the drawings, 70 is preferably made oval and adapted to open, one end A' being in the form of a socket adapted to receive the point A<sup>2</sup> formed on the other end of the file loop. When the file-loop A is disengaged from the socket A', 75

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crandell (US 63785) in view of Keep (US 535622).

Crandell (figures 1, 2) teaches a holder inherently capable of holding sample cards having eyelets therein comprising two holding bodies, b, b', forming a ring-like configuration, two handgrips, c, c', with one having an eye, e, acting as a hanging device for the holder, a spring loaded pivoted joint, D. The differences are that while the pointed end, a', of the holding body b' fits in socket, a, of holding body, b, it isn't stated that the faces complement each other (claim 5) and the passage region isn't lateral in applicant's sense from the joint. However, Keep (figure 1) teaches a holder inherently capable of holding sample cards having eyelets therein comprising two holding bodies, A, D, forming a ring-like configuration, two handgrips, B, E, with one, B, having an eye fully capable of being a hanging device for the holder, a spring, C, loaded pivoted

joint, H, and beveled end faces, N, L, on the holding bodies spaced laterally from the joint in the sense of applicant's device. Therefore, it would have been obvious to modify the holder of Crandell to have the structure taught to be useful by Keep.

*Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patent of Keep (US 279170) teaches pertinent holder structure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES R. BRITTAINE whose telephone number is (571)272-7065. The examiner can normally be reached on M-F 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. Gay can be reached on (571) 272-7029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James R. Brittain/  
Primary Examiner, Art Unit 3677

JRB